

§ 246.24

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claim, and shall be computed monthly on any unpaid balance as long as the debt exists. From a source other than the Program, the State agency shall provide the funds necessary to maintain Program operations at the grant level authorized by FNS.

(c) *Claims against participants.* If a State agency determines that food benefits have been improperly issued under the Program as the result of a participant, guardian, or caretaker intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such participant, guardian, or caretaker an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost-effective. The State agency shall establish standards, based on a cost benefit review, for determining when recovery is cost-effective and maintain on file documentation of the disposition of all cases of improperly issued benefits. All such cases shall be pursued to the fullest extent possible, consistent with the State agency's cost-effectiveness standards. The State agency may delegate to its local agencies the responsibility for the collection of such claims in accordance with the State agency's standards.

(d) *Penalties.* In accordance with section 12(g) of the National School Lunch Act, whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property for his or her own interest, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets or property are of the value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than \$100, shall be fined

not more than \$1,000 or imprisoned for not more than one year, or both.

[50 FR 6121, Feb. 13, 1985, as amended at 52 FR 21238, June 4, 1987]

§ 246.24 Procurement and property management.

(a) *Requirements.* State and local agencies shall ensure that subgrantees comply with the requirements of 7 CFR part 3016, the nonprocurement debarment/suspension requirements of 7 CFR part 3017, and if applicable, the lobbying restrictions as required in 7 CFR part 3018 concerning the procurement and allowability of food in bulk lots, supplies, equipment and other services with Program funds. These requirements are adopted to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in A-130 and 7 CFR part 3016 do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *State regulations.* The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in A-130 and 7 CFR part 3016.

(d) *Property acquired with Program funds.* State and local agencies shall observe the standards prescribed in 7 CFR part 3016 in their utilization and disposition of real property and equipment, including automated data processing equipment, acquired in whole or in part with Program funds.

[50 FR 6121, Feb. 13, 1985, as amended at 59 FR 11508, Mar. 11, 1994]